

**TOWN OF FOUNTAIN HILLS
MINUTES OF THE REGULAR SESSION OF THE
FOUNTAIN HILLS TOWN COUNCIL
September 17, 2009**

* **CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Mayor Schlum called the meeting to order at 6:31 p.m. in the Fountain Hills Council Chambers.

* **INVOCATION** – Associate Pastor Gary Emmons, Christ's Church of Fountain Hills

* **ROLL CALL**

Present for roll call were the following members of the Fountain Hills Town Council: Mayor Schlum, Councilmember Contino, Councilmember Leger, Councilmember Brown, Councilmember Hansen, Vice Mayor Archambault and Councilmember Dickey. Town Manager Rick Davis, Deputy Town Manager Julie Ghatti, Town Attorney Andrew McGuire and Town Clerk Bev Bender were also present.

* **MAYOR'S REPORT**

Mayor Schlum read a proclamation into the record declaring September 28, 2009 "Family Day – A day to eat dinner with your children."

Mayor Schlum read a proclamation into the record declaring October 4 – 10, 2009 "Fire Prevention Week" in the Town of Fountain Hills.

* **SCHEDULED PUBLIC APPEARANCES**

- (i) Presentation by Chaparral City Water Company District Manager Rob Hanford regarding the state of the Town's water resources.

Chaparral City Water Company District Manager Rob Hanford addressed the Council relative to this agenda item and said that last month he met with the Town Manager, Rick Davis, and suggested that on a regular basis, in a manner similar to other department heads, that he be available to provide updates at the Town Council meetings and respond to questions from the Council. Mr. Hanford provided a brief update on the status of the Town's water resources and discussed the capital budget; an annual efficiency pump program that was in place to determine equipment that needed to be repaired/replaced; water quality issues; "table top" emergency preparedness exercises that take place with Rural Metro; Southern California's drought situation and mandatory rationing that was taking place; the fact that this was not a situation that we faced here in Arizona; the State Trust Land and the fact that the land was not in the "certificated area" and at the request of the Town and State Land Department in 2004, they had filed and had approved by the Arizona Corporation Commission an "Order Preliminary" to their Certificate of Convenience and Necessity and this would allow them to serve that land once they met a set of conditions established by the Corporation Commission; the fact that the "Order Preliminary" received a 17-month extension and expired on April 25, 2010; the fact that if it did expire it was not necessarily an adverse situation and they could process extending those lands into the Town's service area - they would just do a regular filing of the extension of their Certificate of Convenience and Necessity. Mr. Hanford indicated his willingness to respond to questions from the Council. Mayor Schlum thanked Mr. Hanford for his presentation.

Councilmember Brown said that several years ago the District pumped and tested the water level in the Town's aquifers and he believed the testing was very successful. He asked whether the levels and tables had been checked recently.

Mr. Hanford replied that they had performed a Fiscal Availability Determination that was submitted and approved by the Arizona Department of Water Resources and they concurred that the testing was very successful. He reported that the pumping levels were at the same level today as they were in 1972 and added that the ability to extract water from the wells was still very high.

In response to a question from the Mayor, Mr. Hanford advised that the Chaparral City Water Company did utilize some ground water and provided details. He noted that Arizona and other states had naturally occurring arsenic and discussed effective treatments.

Mayor Schlum commented on the fact that the aquifer level remained healthy. Councilmember Leger stated that the tour Mr. Hanford took the Council on a few months ago was very helpful and informative. Mr. Hanford responded to a question from Councilmember Leger and reported that the aquifer was naturally replenished.

Councilmember Dickey reported that the new Director at ADEQ specialized in water when he was with the Environmental Protection Agency and one of the goals that he was stressing this year was to recycle and to reuse water. She encouraged Mr. Hanford to speak to the Director any time and said that they were in pretty good shape in Arizona but in Pine they did have some hauling issues and there were other place in Arizona as well that faced more difficulties than Fountain Hills did. She thanked Mr. Hanford for his efforts.

Mr. Hanford said that if the rest of the west did what Fountain Hills did, they would not have people in such dire straits.

Vice Mayor Archambault asked Mr. Hanford if a situation arose that cut off Arizona from the CAP whether Fountain Hills' aquifer would be enough to sustain them.

Mr. Hanford provided statistics that showed that the Town has enough water to sustain them for more than 100 years.

CALL TO THE PUBLIC

Town Clerk, Bev Bender, advised that Mr. David Adler wished to address the Council.

Mr. Adler addressed the Council and read a letter into the record entitled "Bird was the Word" that he had submitted to the Editor of the Fountain Hills Times that was not published (copy on file in the office of the Town Clerk). Mr. Adler expressed the opinion that the Town should stay out of Court when possible and urged the Editor of the paper to publish his letter for the benefit of the citizens of Town.

Mayor Schlum thanked Mr. Adler for his comments and suggested that he meet with Mr. Hanford to discuss water concerns that he raised.

The Mayor reminded everyone that Ballet Under the Stars would take place on September 24th at 7:00 p.m. at Fountain Park; the PTO Carnival would be held on September 25th at Four Peaks Park and encouraged family attendance at this fun event; Oktoberfest would be held on September 25th and 26th from 5:00 p.m. to 10:00 p.m. and he would be there to "tap the keg." The Mayor added that the Town would hold a paper shredding event on September 26th starting at 9:00 a.m. until the paper truck was filled in the Library parking lot and said that also on September 26th there would be a guided hike through the McDowell Mountain Preserve (leaving from Copperwynd Resort at 8:00 a.m. and he requested that those interested arrive at least 15 minutes early). Mayor Schlum noted that the first Open House on the proposed General Plan would be held on September 28th at 5:00 p.m. at the Community Center. He noted that on September 30th, the Homecoming Parade would take place at 5:30 p.m. down the Avenue of the Fountains. He also advised that on October 2nd there would be a tailgate party for the actual game on Friday night at 5:00 p.m. He noted that the events were free.

CONSENT AGENDA

AGENDA ITEM #1 - CONSIDERATION OF APPROVING THE TOWN COUNCIL MEETING MINUTES FROM AUGUST 11, 20 AND 31, 2009.

AGENDA ITEM #2 - CONSIDERATION OF APPROVING A LIQUOR LICENSE APPLICATION SUBMITTED BY MICHAEL SADIK YONO, (SPORTS GOURMET, LLC DBA OVERTIME SPORTS GRILLE) LOCATED AT 16872 E. AVENUE OF THE FOUNTAINS #104-106, FOUNTAIN HILLS, AZ. THIS IS FOR A SERIES 12 LICENSE (RESTAURANT).

AGENDA ITEM #3 - CONSIDERATION OF APPROVING A LIQUOR LICENSE APPLICATION SUBMITTED BY RICHARD EUGENE FLOYD, (PARKVIEW TAP HOUSE, INC.) LOCATED AT 16828 E. PARKVIEW AVENUE, #B & #C, FOUNTAIN HILLS, AZ. THIS IS FOR A SERIES 12 LICENSE (RESTAURANT).

AGENDA ITEM #4 - CONSIDERATION OF A SPECIAL EVENT LIQUOR LICENSE APPLICATION SUBMITTED BY LARRY R. ANTES (AMVETS POST NO. 7) FOR THE PURPOSE OF A GOLF FUNDRAISING EVENT, LOCATED AT 17030 E. ENTERPRISE DRIVE, FOUNTAIN HILLS, AZ, SCHEDULED TO BE HELD ON SEPTEMBER 26, 2009 FROM 9:00 A.M. TO 11:59 P.M.

AGENDA ITEM #5 - CONSIDERATION OF A SPECIAL EVENT LIQUOR LICENSE APPLICATION SUBMITTED BY WILLIAM LEE KLEIN (AMERICAN LEGION POST NO. 58) FOR THE PURPOSE OF A FUNDRAISING EVENT LOCATED AT 16837 E. PARKVIEW AVENUE, FOUNTAIN HILLS, AZ, SCHEDULED TO BE HELD ON NOVEMBER 13, 14 AND 15, 2009 FROM 9:00 A.M. TO 10:00 P.M.

AGENDA ITEM #6 - CONSIDERATION FOR APPROVAL OF RESOLUTION 2009-34, ABANDONING WHATEVER RIGHT, TITLE OR INTEREST THE TOWN HAS IN THE CERTAIN PUBLIC UTILITY AND DRAINAGE EASEMENTS LOCATED AT THE SOUTHWESTERLY PROPERTY LINE OF PLAT 203, BLOCK 10, LOT 11 (16309 FOUNTAIN HILLS PLACE) AS RECORDED IN BOOK 149 OF MAPS, PAGE 29, RECORDS OF MARICOPA COUNTY, AZ. EA07-24 (LA MAR).

AGENDA ITEM #7 - CONSIDERATION OF APPROVING RESOLUTION 2009-37, ABANDONING WHATEVER RIGHT, TITLE OR INTEREST THE TOWN HAS IN PORTIONS OF THE CERTAIN PUBLIC UTILITY AND DRAINAGE EASEMENT LOCATED AT THE SOUTHERLY PROPERTY LINE OF PLAT 505A, BLOCK 2, LOT 8 (15521 E. RICHWOOD AVE.) AS RECORDED IN BOOK 158 OF MAPS, PAGE 40, RECORDS OF MARICOPA COUNTY, AZ. EA09-07 (HILLER).

Councilmember Hansen **MOVED** to approve the Consent Agenda as listed and Councilmember Brown **SECONDED** the motion.

A roll call vote was taken with the following results:

Councilmember Dickey	Aye
Mayor Schlum	Aye
Councilmember Leger	Aye
Councilmember Hansen	Aye
Councilmember Contino	Aye
Councilmember Brown	Aye
Vice Mayor Archambault	Aye

The motion **CARRIED UNANIMOUSLY** (7-0).

REGULAR AGENDA

AGENDA ITEM #8 – CONSIDERATION OF RESOLUTION 2009-38, APPROVING A DONATION AGREEMENT FOR THE TRANSFER OF OWNERSHIP OF TWO PARCELS (176-25-552 AND 176-06-701A) FROM THE LAKESIDE VILLAGE HOMEOWNERS' ASSOCIATION TO THE TOWN OF FOUNTAIN HILLS, ARIZONA.

Deputy Town Manager Julie Ghatti addressed the Council on this agenda item and reviewed the Staff Report relative to this issue. She advised that several months ago, the Lakeside Village Homeowners' Association contacted the Town and offered two parcels of property that they owned on Saguaro Boulevard to the Town. She reported that the parcels were on the southeast corner of El Lago and Saguaro and on the northeast corner of Saguaro and Panorama. Ms. Ghatti stated that the Town would like to accept the two parcels and that staff had worked with the Homeowners' Association over the past couple of months to make this happen. She noted that the donation agreement was signed by the Board on September 9th and the cost of maintaining the property would be absorbed into the current contract that the Town had so there would not be any additional costs to maintain the parcels. Ms. Ghatti indicated her willingness to respond to any questions from the Council.

Mayor Schlum thanked Ms. Ghatti for her presentation. Ms. Bender advised that Dan Halpin wished to speak on this agenda item.

Mr. Halpin addressed the Council relative to this issue and said that there were other "hidden" reasons behind why the Lakeside Village Homeowners' Association was asking the Town to accept the properties. He stated that the HOA wants to dissolve the Lakeside Village Association, which has approximately 38 HOAs and approximately 930 members that paid \$48.00 a year. He added that there was no reason for them to get rid of this since they could sustain it. He said that he could not understand why they wanted to get rid of it and requested that the Council not accept the properties since the Association could handle it.

In response to question from Mayor Schlum, Ms. Ghatti advised that the HOA Board met on September 9th and approved transferring to the land to the Town. She added that the Town intended to keep the property in the same (or better) condition as it was currently and did not have any intention to build on it. She reported that if the Town chose not to accept the land, the Association had received an offer from a local business next to it that wanted to use the parcel for signage purposes (corner of El Lago and Saguaro).

Councilmember Dickey **MOVED** to approve Resolution 2009-38 accepting the donation agreement for the transfer of two parcels from Lakeside Village Homeowners' Association to the Town, subject to completion of on-going due diligence and authorizing the Mayor, Town Manager, the Clerk and the Town Attorney to take all steps necessary to complete the transaction and Councilmember Leger **SECONDED** the motion.

Mr. Halpin readdressed the Council and said that he believed there were 38 associations and not one of them has been contacted about the selling of these properties.

Vice Mayor Archambault asked who had legal ownership of the parcels and Ms. Ghatti responded that the Lakeside Village Association was the current owner and that the association was intending to dissolve as of December 31, 2009.

Town Attorney Andrew McGuire advised that staff had done due diligence on the title side and they were satisfied that the Lakeside Village Association held title to the property. He added that the due diligence that remained on-going was the review of the environmental assessment to ensure that there was not something on the sites of which the staff was unaware.

Councilmember Contino commented on the waterfalls located on one side of El Lago and said that they were all supposed to be filled in and put back environmentally the same way but this had never been done. He asked if staff was sure that all of the debts had been taken care of. Mr. McGuire informed the Council that staff has not

came across anything that would indicate that there was a recorded lien or any type of outstanding mortgage on the property. He noted that this property, along with everyone else in the Lakeside Association, was subject to a set of CC&Rs that were going to be virtually impossible to ever remove. He said that the Town would be taking the property subject to the same CC&Rs followed by everyone else in the association. He stated that removing the CC&Rs would require the consent of all of the property owners and their lenders.

Councilmember Contino asked whether the association had agreed to do the "fill in" a long time ago when the water stopped flowing down the waterfall and the Mayor replied that he was not sure. He added that it was a while ago and a number of HOAs were abandoning some of their water features because there were certain requirements of which they were not able to keep up.

Public works Director Tom Ward stated that the association did come in with their plans and talked to staff about abandoning the ponds and they properly did that. He noted that they were concrete lined ponds and so there was not any infiltration that went into the aquifers to start off with so they abandoned those and punched holes in the concrete to make sure that there would not be any "water holding" later on. He said that staff believed that the work was properly done.

Councilmember Hansen asked if there was any way to clarify this matter for the other HOAs. She said that it seemed odd that they would not be aware of the fact that the Lakeside Village HOA was dissolving. She added that it would seem they would be notified that they would no longer have to pay the \$48.00 a month.

Councilmember Brown noted that he lived in one of the 38 HOAs and said that he had received a letter three or four months ago or maybe longer than that about dissolving the master planned HOA and saying that every HOA was "going to stand on its own." He stated that they were notified but he could not speak for everyone else but Lakeside Villas was notified.

Mr. Pulve addressed the Council and advised that it was no secret that what they were talking about tonight was going to be brought up. He further stated that they were also mailed the same letter and the owners in the Lakeside Association (the other HOAs) were sent notices approximately three months ago. He added that to say no one received notification would surprise him because he believed every resident owning property was provided the same notification.

Mary Mullin, 17224 East Quail Ridge Drive, President of the Lakeside Village HOA, addressed the Council and indicated her willingness to respond to any questions. She reported that there were 16 sub-associations and they had all received notification. She added that they were also asked in the letter that was sent out in April whether they had any objections. She said that she had copies of their returns and only one association indicated any objection; all of the other 15 were delighted that they "were going away."

Mayor Schlum thanked Ms. Mullin for her comments and the association for their willingness to donate the land to the Town.

The motion **CARRIED UNANIMOUSLY** (7-0).

AGENDA ITEM #9 - CONSIDERATION OF A SPECIAL EVENT APPLICATION SUBMITTED BY DCB EXTREME ADVENTURES FOR THE TOUR DE SCOTTSDALE BICYCLE RACE, SCHEDULED TO BE HELD OCTOBER 4, 2009, FROM 8:00 A.M. TO 10:00 A.M., WITH CYCLISTS TRAVELING THROUGH FOUNTAIN HILLS ALONG FOUNTAIN HILLS BOULEVARD, SAGUARO BOULEVARD AND EXITING ONTO SHEA BOULEVARD.

Ms. Ghetti addressed the Council relative to this agenda item and reported that this would be the fifth year that this event had come through the Town of Fountain Hills. She noted that it originated in Scottsdale, went north through Rio Verde, and then came south through Fountain Hills on Saguaro Boulevard and then went back to Scottsdale. She advised that it was a charity event with the proceeds benefitting the McDowell Sonoran

Conservancy and added that MCSO would assist them through the Town. She indicated her willingness to respond to questions from the Council. Mayor Schlum advised that this item was to make citizens aware of what would be going on and said that the event raised money for some good efforts.

Councilmember Brown **MOVED** to approve the Special Event Application as presented and Councilmember Hansen **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (7-0).

AGENDA ITEM #10 – DISCUSSION OF ORDINANCE 09-09, AMENDING THE FOUNTAIN HILLS TOWN CODE, CHAPTER 7, BUILDINGS AND BUILDING REGULATIONS, ARTICLE 7-10, DEVELOPMENT FEES, RELATING TO ADJUSTMENTS TO DEVELOPMENT FEES FOR THE TOWN OF FOUNTAIN HILLS.

Ms. Ghetti addressed the Council relative to this agenda item and stated that at the last meeting in August the Council wanted to have more time to review the ordinance for the development fees and to ask any additional questions. She said that she was here this evening to answer any questions that the Council might have and/or provide further information if needed.

Mayor Schlum commented on the importance of ensuring that as much information as possible was presented so that everyone had a good understanding of the fees. He said that the item was on the agenda for discussion this evening and would come back before the Council for action on October 1st. Ms. Bender advised that three citizens wished to address the Council relative to this agenda item.

Joe Ciotta, 9819 N. Sunrise Circle, addressed the Council and stated that he was present tonight serving in the capacity of the new Vice President and voice of the Fountain Hills' Association of Licensed Contractors. He advised that the association was comprised of a group of industry professionals who were dedicated to outstanding craftsmanship and service to their community and the surrounding areas. He noted that they took pride in their business, their reputations and the Town. He said that last night the group held their first meeting of the year and Ms. Ghetti was the guest speaker. He reported that Ms. Ghetti provided an excellent presentation on the annual development fee report and an explanation of the proposed increases to the development fees. He added that she also did an excellent job answering several tough questions thanks to her knowledge and expertise regarding these issues. He said that after Ms. Ghetti left, the group continued their discussion on the proposed increases and expressed the opinion that the current development fees were already having a negative impact on people's decisions to build homes or builders' desires to break ground on residential or commercial projects (especially multi-residential projects). He stated that construction and development sales tax has long been the major source of revenue for the Town and to implement increases in development fees would put a significant strangle hold on future opportunities to prospective home buyers, builders, and commercial development. Mr. Ciotta commented that there had been talk over the last couple of years about the Town becoming more business friendly and said that progress had been made in many areas but added that voting to increase the fees would not be conducive to making any friends in the business community at this time. He further stated that other avenues must be explored and advised that they, the licensed contractors, opposed the proposed increases.

Mark Dohrmann addressed the Council and advised that he had corresponded with members of the Council over the last few months regarding this issue. He said that he was certain that they knew his position on this issue and added that he was opposed to any increases in the commercial development fees. He stated that he did not have any argument with the fact that the Town needed to raise revenue but added that he believed the reasoning here was faulty. He expressed the opinion that raising commercial fees would have a detrimental effect on downtown development in the future. He said that it was important to look at the history of downtown Fountain Hills and noted that over the past 35 years they had built approximately 75 buildings, two a year, which was not very much. He pointed out that only two of those buildings were built by national developers, the ones who could afford expensive development fees, and all of the rest had been built by small town "mom and pop developers, husband and wife, family or small investor groups" and those were the people who had been the

backbone of downtown Fountain Hills over the last 35 years. He noted that they had created new businesses and jobs.

Mr. Dohrmann informed the Council that as an example, new projects such as the Lakeview Office Center on Saguaro just north of Palisades under this scenario would cost the developers an approximate \$200,000 development fee on top of everything else. He added that the Plaza Waterfront would cost about \$600,000 and provided other similar examples. He advised that he had talked with the owners of the new buildings and each of them emphatically stated that if the proposed fees were in place when they were going to develop, they would not have been able to build in Fountain Hills.

Mr. Dohrmann said that they were sending a great message to the Town by hopefully adopting the proposed Downtown Vision but he believed that if they adopted the increased and very high commercial fees they would be sending out the message that the Town wanted people to come to downtown Fountain Hills to build but they were going to penalize them like crazy if they did so. He urged the Council not to increase the commercial fees and stressed the importance of making Fountain Hills a competitive place to build so that people would come and build new buildings and create jobs.

Mr. Frank Ferrara, President and CEO of the Fountain Hills Chamber of Commerce addressed the Council and said that he wanted to present a short statement - the Fountain Hills Chamber of Commerce Board of Director's position on commercial impact fees. He stated that they believed that the timing might not be right especially due to the fact that the Legislature had a two-year moratorium between June of this year and June of 2011. He added that that was in the signed budget. He pointed out that they had just finished a very great Visioning process and added that they hoped that they could attract major developers. He said that they all knew what the letter said if they have read it and it represented the viewpoint of the Chamber of Commerce.

Mayor Schlum thanked all of the speakers for their comments.

Councilmember Dickey stated that at the last meeting when the Council voted to continue this item. It was not a unanimous vote and she had not wanted to continue it but she would like to know when an action item had been continued (that had an attached ordinance and suggested motion, etc.) why their expectation would not be that the item would be on the agenda this evening. She requested clarification on how that happened and said she believed it was pretty clear that the Council was ready for action that night but continued it and now they were discussing it again rather than taking action.

Town Manager Rick Davis explained that what appeared on the agenda represented staff's understanding of what the Council wanted to see this evening. He added that they were a little "fuzzy" on what the numbers were going to be and staff thought that the Council would like to discuss that and give some direction as to where the impact fees were going to lie and then staff would prepare that for item for the next Council agenda. He apologized and said that this was obviously not what the Council intended.

Councilmember Dickey asked what it meant when the Council continued an item and Town Attorney Andrew McGuire replied that it generally meant that the item moved forward as it was. He added that the problem was not necessarily with whether it was continued or not, it was with the agenda as it reads today. He stated that staff was required to provide an agenda that gave notice to the general public on what was to be decided. He said that the agenda was very clear that tonight's item was discussion without action.

Councilmember Dickey commented that she did not expect the Council to take action tonight and pointed out that the packet indicated that there was an attached ordinance but she did not see one. She said that she would take her own responsibility for reading the word "discussion" and thinking "consideration" but added the opinion that the Council had every reason to expect that the item would be the same one continued from the last meeting and that they would be taking action tonight.

Mayor Schlum stated that his expectation had been that the Council would take action tonight as well but he did review the packet prior to it being posted on the website. He advised that he saw that the agenda said "discussion" and did not have an issue with that. He said that he had other questions that he passed on to staff related to the moratorium that he wanted to discuss and so in light of the fact that the moratorium had been signed he did not see any great reason to have a decision made tonight so he did not suggest changing the item. He added that he would not have been surprised if it had been posted for Council decision this evening based on the discussion that took place at the last meeting.

Vice Mayor Archambault noted that last night there was much discussion about the different fees imposed by the surrounding cities and towns and one of the questions that came up was whether the fees that they were looking at were based on cities/towns that had sewer and water or were those fees taken out when they were comparing apples to apples with the different municipalities.

Ms. Ghetti responded that the chart that depicted Fountain Hills compared to other cities included fees contained non-utility development fees (no sewer or water in any of the fees). She confirmed that the data was an apples-to-apples comparison.

The Vice Mayor advised that another item that came up last evening was taking the commercial proposed fee and applying it against different businesses around Town. He added that he had a discussion with Bob Rodgers regarding this. He asked if, when a plan came to the Building Department, whether fees were calculated not on the zoning that the property has but rather the use of the building.

Chief Building Official Peter Johnson addressed the Council and explained that the type of building was determined by the design and architecture (the structure) and said that the Building Code had classifications for industrial, commercial, multi-family, hazardous occupancies -- everything was calculated in the Code Book so if someone presented an office building, staff knew how to classify it office and if it was a mercantile retail style establishment, the Code and the intended use determined that. He stated that he was not aware of the zoning affecting the fee; it would only be the classification of the building as the Code defined it.

Vice Mayor Archambault advised that the fear that was expressed last night was that the \$9.37 per square foot would be charged against a building that was perhaps 900 square feet office and the rest warehouse used. He said that if the fee applied to the whole building it would result in an astronomical cost.

Mr. Johnson clarified that when there was a building that had a warehouse and a small office associated with it, the office was what they called an "incidental use" and the primary function was the storage, so fees would be based on the use of the building. He added that if, on the other hand, the building was 90% office with 10% warehouse, then the fee would be based on an office building. He said that some buildings were so unique that they would be required to be looked at on a case-by-case basis.

The Vice Mayor advised that he wanted to clarify that because it led him on an odyssey today that pretty much took up his whole day. He added that he wanted to point out some differences because oftentimes people acted on fear of the unknown instead of seeking out the answers. He said that he did a quick calculation on a building such as his (an 11,000 square feet building) and noted that his fee would be approximately \$60,000 and in 1999, when he built the building, it was \$27,000. He stated that he had to ask himself whether that was out of line and could he build the same building he built in 1999 for the same cost or would he expect that cost to double. He said that the answer was that the cost was more than double because of the cost of labor, materials, etc. and everything went up. He added that he then started to look at commercial to determine why the costs were driven so high and he learned that in 2006 the difference between what they had built up to that point and what they had left to build out was about 758,000 square feet of commercial. He reported that today the difference between what they had built out in commercial and what they had left to build out was 2,889,000 square feet. He said that they had to ask themselves how they increased their commercial space and stated that they had been listening to the citizens all along about being business friendly. The Vice Mayor stated that it was interesting that that phrase was used tonight because oftentimes you want to "be careful of what you ask for because you

might get it" and here is what happens. If they increased commercial development, they increased vehicle miles traveled per square foot on a national basis and therefore, they created more demand on infrastructure so the more commercial they generated the more they had to spend to maintain the same level of service.

Vice Mayor Archambault commented that the Town has been proactive in doing overlay plans, annexing the State Trust Land and creating the resort properties and they had doubled the footprint of certain areas (that was how they got to the 2,889,000 square feet of commercial from 758,000). He noted that drove the infrastructure and as they got to build-out, the Swaback land might become a reality and if they drive all that traffic down here they might have to put in a round-about (\$7 million) and they might have to widen Fountain Hills Boulevard (\$7 million). He said that he came "full circle" as he realized that no wonder the cost was going from \$3.00 a square foot to \$9.00 but added that now came the aggravating factor -- in 2001 it was proposed that commercial was \$2.25 a square foot but the Council took .51 and then in 2006, the estimated cost was \$5.40 and the Council approved \$3.00. The Vice Mayor stated that what they were now seeing was that they were not only being proactive and trying to be business friendly, but that they were also playing catch up to pay the piper.

Mayor Schlum concurred with the Vice Mayor's remarks and added that it was a balancing act. Vice Mayor Archambault agreed and said that they did not want to put things over on the citizens but they had to make the citizens pay for the services that they demanded and they had to stop reaching into the Town's coffers and expecting the Town to have a sustainable revenue source if they were going to continue to under fund projects. He clarified that he was not saying that \$9.37 was it; but he was trying to lay down the track for the path he had followed today to get to where he was at now. He noted that the same thing happened when they went to residential and he reported that in 2006 they had 4,872 residential units left to build out, including the 1,350 in the Ellman Property. He said that today they had 2,534 residential units left to build out and as the infrastructure demands continue and the pressure to provide the infrastructure in order to maintain the same quality of life. He added that they were spreading it over a lower number of residential units and that was why the residential units were doubling.

Councilmember Dickey advised that she wanted to address the budget bill because it was signed but there were a couple of things going on. When a Special Session was called, it was called for one or two specific reasons and this one was called for the budget. She said that there were several items and the construction sales tax freeze was one of them, the building code freeze was another and the moratorium was even more extensive than they had talked about. She explained that the grounds for challenging it were that it was beyond the call or the scope for the Special Session. She reported that it was not a dead issue at this point and pointed out that nothing was ever done when it was done. She reported that the Governor had indicated early on that she favored local control and local decision making and if the Legislature went into session next year (in January or perhaps before) to address this, although she has no direct information, she would not count it out so she did not want to have July of 2011 be the definite "drop dead date" --it could be as soon as January of 2010.

Councilmember Dickey added that she did not feel that it was fair or equitable to residents that they were bearing a great deal of the responsibility for growth-related infrastructure and needs. She noted that the development fees did not cover all of the expenses and said that some of them should be covered by those yet to come. She commented that they did not have a property tax to speak of but they have had a property tax for the roads, for the Fire District, and they have a Sanitary District right now and a School District. She added that they had property taxes that paid for preserving the mountains, for the Community Center, the downtown area and the infrastructure required, the postcard view -- and now residents were driving on roads that were not in good shape and they did not have a good feeling that they would be in good shape. She noted that they had been told several times that they needed another Fire Station and mandates had been handed down related to storm water management.

Councilmember Dickey advised that non-Fountain Hills resident-owned businesses (people who build buildings but did not live here) did not cover the expense of public safety -- fire protection, parks, and transit issues because there was not a property tax to speak of. She said that businesses and others who wanted to invest in their beautiful Town with their downtown center plan would not be lured by low development fees if they had

failing infrastructure or a Town that was not in a very good financial state (a budget that they had to keep cutting year after year). She reported that the relationship between economic development and low fees was just not there, it had been studied, and on the State level and now in Fountain Hills she had a hard time understanding accommodation for some groups when she felt that they were in conflict with the good of the entire Town (including those groups that have had low taxes in the State of Arizona and in Fountain Hills and low fees). She stated that Arizona was a right-to-work State yet it really had not spurred the kind of economic development activity and investment that was necessary to sustain the Town.

Councilmember Dickey also discussed timing and being paralyzed by the environment of the economy. She said that their message was that they did not want to raise development fees until there was a time when they did not collect them -- she was trying to figure that part out. She stated that they were on the verge of the Ellman Property and were saying "let's not raise development fees until they could actually collect them to help them 20 years down the line." She advised that no one from Ellman had contacted her nor had any of the developers who had interests in downtown and said that hopefully they could work with people as they had done in the past as far as expedited permitting or setbacks, etc. but the development fees help them do that because maybe that could translate into something that they really need. Councilmember Dickey noted that they paid \$60,000 for the study and something they felt was a valid measure of partially paying for the price of growth.

Councilmember Brown advised that he struggled with the fact that if there was a lot on Trevino that had been ready to be built on since 1976 and the people had been paying their County taxes and dues on it since that time, why did they get tagged with a development fee when they had paid the same dues everyone else had. He said that every lot in the commercial area was designed to meet the streets and he struggled with trying to charge a family moving to Fountain Hills and moving onto an established lot in an established neighborhood that they had been paying taxes on (granted, to pay for the downtown and Town Hall, etc.). He stated that if they talked about sustainability and that the development fee was going to be sustainable for Fountain Hills, he did not believe that was going to happen. He noted that they were going to run out of land to build on and buildings to build. He added that they needed to be looking way beyond that. He also discussed the commercial aspect and said that again, it was not fair -- people had paid their taxes on the lots and paid to fix the streets and now we were going to charge them the same permit fee and tag them for \$10.00 a foot more just because they wanted to bring a business to Town. He said that he agreed that they should have a development fee but also thought that if that was the case that the field needed to be leveled and everyone should pay the same development fee. He added that they should level the playing field and bring everyone up to speed. He stated that he could not get up to speed, especially on the existing lots in Town that had been here for 40 years, to ask them to pay more because more traffic was going to be generated. He announced that he would support where they were at but he probably would not support very much more. He expressed the opinion that it was not a financially good move for the Town.

Councilmember Dickey stated that if they were talking about undeveloped lots, the assessments on those were very different than on a developed lot and the taxes that those owners paid were probably a lot lower than what she had been paying for 26 years on developed houses. She reiterated that they were paying for the traffic -- roads -- and they represented another family in Town and that was the name of the game. She added that as far as "paying another \$10.00 per square foot," it was another \$6.00.

Councilmember Brown noted that they were talking \$9.37 if they passed the full recommended amount and Councilmember Dickey said that it was \$3.21 cents right now.

In response to a question from Mayor Schlum relative to how development fees were based for residential and commercial properties (based on the impact once people were living there or once the business was up and running). Ms. Ghetti expanded on this issue, particularly the residential portion.

Ms. Ghetti advised that the reason they were called impact fees was that each new home had an impact. She added that the philosophy with impact fees was that growth paid for itself. She said that when a family moved in, there was increased traffic and also an increased demand on the Town's parks, Police, Fire, and all

governmental services. She reported that the way fees were calculated was based on two things, first the level of service. They had adopted a level of service that they would like to maintain and they did that through development fees and if they did not pay attention to those capital projects to maintain that level of service, then the level of service would drop.

Mayor Schlum stated that a new commercial property was going to be built in the downtown area and it would cause much more traffic, eventually requiring a new street light that was going to be paid for, other improvements (perhaps a turning lane, etc.) and asked how those items would be paid for. Ms. Ghetti responded that commercial development fees were calculated based on traffic counts and noted that a residence brought in two and a half people with two cars twice a day and a commercial business might bring in 50 cars a day and they present a significantly stronger impact on the community and the infrastructure.

Mayor Schlum asked where the money came from if impact fees were too low in an area where they wanted to create nice development with sufficient infrastructure and Ms. Ghetti advised that low impact fees would result in cuts in the level of service, decreases in capital projects, or identifying an alternative funding source (General Obligation bonds, property tax, etc.).

Discussion ensued relative to the challenge of development incentives in the downtown area to ensure that their Vision came to life sooner than later; the importance of finding a balance that would help the Town pay for potential street improvements to support the new businesses; the fact that development fees had recently paid for a portion of the Desert Vista Park, the parking facility at the Botanical Garden and the traffic signal on Palisades and Sunridge; the fact that development fees could be used as long as it was determined that the projects were the result of growth; the fact that a parking area was the type of capital project that could be included (for use of impact fees) and the fact that that was always the legislative decision of the Council to prepare the infrastructure improvements plan (what was growth related and what was not); the fact that development fees were mainly used as a reimbursement tool for the developers who built large pieces of infrastructure; the fact that the message contained in the letter from the Chamber of Commerce was to "be reasonable" and that was what they were trying to be; the fact that according to the chart submitted by staff, the City of Avondale has a dedicated sales tax for Police & Fire on one hand and water, sewer infrastructure on the other; Town of Fountain Hills statistics compared to other municipalities; and the importance of remaining competitive while keeping an eye on ensuring infrastructure to maintain a continuing quality of life.

Councilmember Hansen advised that there was a sentence in the staff report that said, "a majority of the increases (86%) was due to the maintenance costs related to the pavement management study completed by Stantec." She said that another way to look at this was that the Town had spent years wearing down their streets and now they were saying to new development "we want you to help us take care of the streets that we have been wearing down over the years." She added that some of the discussion they've had had to do with the cost of development and they forgot to talk about the benefits of development and growth. She referred to Bashas' new development and pointed out that they put forth internal monies and made improvements to the property. Not only did they pay impact fees, they also paid for additional improvements that were part of the development agreement. She said that if the Town did a project like Saguaro and went forward with a bond issue they would have new businesses that would be paying additional property taxes as well as the impact fees that they paid so it was almost as though they were getting taxed twice. She stressed the importance of keeping in mind that when new businesses came into Town, they were bringing more people to Town and generating more sales tax dollars. She added that new residents moving in were also going to be a benefit to the Town. She stated that as far as new growth paying for itself, they had to keep in mind the benefits of the new people and new businesses as well. She advised that she liked to see the Town lower down on the chart than where they would be with all of the increases (almost to the top).

Mayor Schlum requested that Ms. Ghetti speak to the double taxing issue. Ms. Ghetti explained that if it was a redevelopment project, for example Bashas', redevelopment did not typically pay impact fees because they had already paid them unless there was an increase in square footage. She pointed out that it came down to the level of service and when they talked about paving Saguaro Boulevard, they had an assumption right now of a level of

service for 24,000 - 25,000 people based on the traffic counts. She added that as they new businesses came with more traffic, if they did not maintain the level of service it would go down (if they did not do the infrastructure that was the result of the growth). She said that it was really based on the level of service that they as a community wanted to maintain.

Mayor Schlum asked if Bashas' was brand new and funded some of the services (offsite improvements) how that was usually worked out. Ms. Ghetti replied that the business would typically get a credit. Mr. McGuire interjected that it was key to remember that only infrastructure in the Infrastructure Improvements Plan was eligible for a credit. He stated that if a new developer came into Town and built the typical curb, gutter, streets, sidewalk, deceleration lanes, bus lanes, etc., but none of those were included in the impact fee calculation, there would not be a creditable item. He added, however, that if there were additional things done, they would be eligible for reimbursement. He said that it was important to keep in mind what they call development exaction was the impact that the development was going to have on the area immediately surrounding it.

Mayor Schlum commented that as far as residential development, developers were not necessarily opposed to impact fees because they were generally used for capital improvement projects that benefitted a developer but were paid for by a builder, which was typically a flow-through cost to the ultimate purchaser. He added that commercially the developer might often be the builder as well. Mayor Schlum asked why the Town would consider a fee increase when there was a moratorium against collecting anything higher than what they had today.

Mr. McGuire responded that only the Council could make that decision but there was a Legislative intent behind the moratorium that the fees not be increased within the next two years. He noted that the Town had invested approximately \$60,000 in the fee study (current as of now) and said that were they to wait until the end of the moratorium period to implement the fees, they would need to go back and "refresh" that study or re-conduct the study. He added that if, in the interim period, the moratorium was lifted (by lawsuit, the Legislature deciding that one year was sufficient, etc.), a gap would have been left in the fees and they would have to re-start the clock. He suggested that if there was a desire to move forward and implement fees now, that they would choose a delayed effective date to meet the legislative intent so that they were not increasing the fees during the two-year period with the caveat that if the Legislature decided that the moratorium period was going to go away earlier or it went away by court order, that the Council could implement them by another date (whatever they decided upon). He also recommended that they keep in mind that parts of the budget bill were the amendments to the development fee Statute that were under negotiation with the development community and the cities and towns when the Legislative session was still going prior to the Special Session. He said that that all sat and was never implemented in the bill that it was in but the language from that bill was transplanted into the budget bill. He noted that there were actually amendments to the development fee statute that take place the end of this year that they would miss out on if for some reason they adopted fees at whatever level they now chose; 75 days from the day of adoption they would be able to be implemented. He stated that if the moratorium was challenged and tossed before that time, the Town's fees would be effective prior to the end of this year when the changes to the development fee statute take effect. He noted that those changes were basically grandfathering provisions to freeze fees for two years after final approval on a residential, final subdivision plat and on a subdivision plat it was upon site plan approval.

Mayor Schlum commented that Councilmember Hansen had made three great points, one being that when everything in Town was built out, they were going to need a good economic engine to fund their quality of life; they needed good development in Town, sales taxes and people to be here sooner rather than later and fees that were too high might cause that to occur later rather than sooner. He added that Mr. Dohrmann also brought up the petition that many people signed requesting that there be no increase in development fees. Mr. Dohrmann provided examples of buildings that were constructed recently and what the effect would be on them with the new impact fees and they seemed quite a bit different from what Vice Mayor Archambault shared. He said that those numbers might be something interesting for the Council to have at the next meeting or before.

Vice Mayor Archambault stated that discussion took place regarding existing residents wearing down the streets and said that if anyone had owned a piece of property in Town for a while and had been paying property taxes, the question arose as to why they should pay development fees when they moved in. He advised that when he built his first property in 1978, he paid for road district bonds and sanitary district bonds so the citizens who had been here for a while had been paying for the needed infrastructure that drove the economic engine that drew new residents here. He said that as new residents moved into Town they paid for the infrastructure that was required. The Vice Mayor advised that it was a buy-in process to the citizens who were moving here now - they were now asking them to maintain the streets; they were asking them to pay for the buy-in because they might have an impact on, for example, a specific traffic light. He further stated that last night they discussed the Ellman Property and everyone said that the Property was "driving this thing." He said that they knew better than that because development pays for development and impacts should pay for impacts. He noted that Ellman was going to put all of the streets in, all of the sewer and water lines, etc. and that was their responsibility but the cost of that was going to go into the cost of the lots. He added that over the years the Town had given too much away on the hope of development -- development that has never happened -- and from 2001 to 2006 the development fee for commercial was .51 per square foot and he did not see a huge rush to build take place. He noted that from 2006 to now it had been \$3.21 a square foot and there had still not been a huge rush. He pointed out that the development fees became a negotiation tool. He said that everyone would come to their own conclusion but he would like to reiterate that they built this Town so that it would be desirable enough for everybody else to move here and basically, when he looked at the development fees (and he did not know what level they were going to decide upon) as a buy in and if there was going to be an impact on the infrastructure, the Town had to collect the money because if they did not, they were going to reduce the level of service and if they did that, there would be an exodus from Fountain Hills.

Mayor Schlum stated that the other item that Councilmember Hansen brought up was the 85% due to maintenance, the pavement management analysis that was done, and it said in the report that "the majority of the increase, 85%, was due to the maintenance costs related to the pavement management study completed by Stantec." He emphasized that the report stated maintenance costs and not growth and asked for some input from Ms. Ghetti.

Ms. Ghetti clarified that basically the Stantec report assigned a cost for what the Town needed for the streets (the infrastructure) to bring them up to a certain standard level. She explained that the cost then gets transferred to the projects that were on the Capital Improvement Plan and were growth related. She added that that caused the cost of the projects to increase -- it was not for the maintenance; it was just that the Stantec study told them what the true cost was to build a road or an intersection and those costs were transferred back into the capital projects.

Councilmember Dickey asked whether Bashas' had to pay impact fees for their redevelopment project and Mayor Schlum advised that they did not. Ms. Ghetti stated that Bashas', like any development, only paid development fees for the increase in square footage.

Mr. McGuire advised that in terms of preparing an ordinance for the Council for next week he would like to know whether the Council would prefer alternate versions or just have blanks in the ordinance. He added that they could also bring it forward as it was right now and amend it on site.

Mayor Schlum noted that on the cover page of the staff report it had it broken down by current and proposed -- the four different uses. He said that if they were able at their next meeting to agree to what the new development fees would be for each of the four uses (if that was ultimately where they needed to go) then he would think that four blanks in those areas and necessary language would suffice. He added that they would arrive at those numbers at the next meeting.

Mr. McGuire informed the Council that staff would bring the exhibit without any numbers in it and allow the Council to fill them in that night. He said that staff would also prepare the language so that the Council could

see the impacts of implementation now and delayed implementation until 2011. The Council concurred with Mayor Schlum and Mr. McGuire's suggestions relative to the ordinance.

Mayor Schlum thanked staff for the presentation and the members of the Council for the excellent discussion that took place on this agenda item.

AGENDA ITEM #11 - CONSIDERATION OF APPROVING THE DOWNTOWN FOUNTAIN HILLS VISION PLAN AS DEPICTED IN THE DOCUMENTS PREPARED BY SWABACK PARTNERS ON BEHALF OF THE TOWN OF FOUNTAIN HILLS AND THE FOUNTAIN HILLS CHAMBER OF COMMERCE WITH POSSIBLE DIRECTION TO STAFF TO PROCESS THE DOWNTOWN VISION PLAN AS AN AREA SPECIFIC PLAN IN CONJUNCTION WITH THE GENERAL PLAN AMENDMENT PROCESS. IF SUBSEQUENTLY ADOPTED, THE VISION PLAN WOULD SERVE AS THE OFFICIAL POLICY GUIDE FOR FUTURE ORDINANCE REVISIONS, LAND DEVELOPMENT AND ECONOMIC GROWTH IN DOWNTOWN FOUNTAIN HILLS.

Senior Planner Bob Rodgers addressed the Council relative to this agenda item and noted that the Downtown Vision Plan was the result of a process started by the Business Vitality Advisory Council of the Fountain Hills Chamber of Commerce. He said that in December 2008, a group of citizens and business owners worked with the Chamber to engage Swaback Partners to undertake a Visionary process and evaluate the downtown core area in order to better align it with future development. He noted that the Town Council joined with the Chamber in supporting the process and it became an excellent example of a public/private effort.

Mr. Rodgers said that the Vision Plan was the product of months of research, staff reviews, Town Council reviews, focus groups, and public forums and added that the resulting plan now being proposed provided a comprehensive look at the entire downtown area and outlines a number of possible scenarios for both its current and long-range development, vitality and sustainability.

Mr. Rodgers outlined the nine districts that were fully outlined in the Vision Plan and provided a brief description of each:

- * The Business District
- * The Avenue District
- * The South End District
- * The Residential District
- * The West Side District
- * The Civic District
- * The Service District
- * The Lakeside District
- * The Park District

(Councilmember Hansen left the dais at 8:38 p.m. and returned at 8:39 p.m.)

Mr. Rodgers discussed the fact that each District would have its own unique character while also blending harmoniously with the other downtown Districts to create the "Downtown Vision." He noted that the Vision gives the downtown its unique character and appeal while providing for an invigorated business climate as well as an increased quality of life for the Town's residents and visitors.

Mr. Rodgers explained that the Council was now being asked to approve the "Vision" depicted in the Downtown Vision Plan and stated that once the Vision was approved, staff would begin the formal process of adopting it as an Area Specific Plan for the downtown area and incorporating that Plan into the public hearing process of the General Plan Update, which was currently underway. He added that once the Area Specific Plan had been adopted through this process, the Town would have a distinct and thorough development guide for any proposals that might be made for or in the downtown area. He noted that by adopting the Vision Plan as an

Area Specific Plan, the Town would be making a commitment to follow the Vision and to encourage development that enhanced the downtown area and the quality of residents' lives in general.

Mr. Rodgers said that approval of the Plan would provide the Town as well as future developers with a detailed Vision of the type of development the Town would like to see in the downtown area and added that approval would also allow staff to begin the process of formally adopting the Plan as an Area Specific Plan for the downtown area and to begin preparations for any necessary ordinance or Code changes that might be recommended. He also stated that not approving the Vision Plan would indicate that the Council was not yet satisfied that the Vision Plan was appropriate for the downtown area. He explained that not approving the Plan would require that the current development patterns and governing ordinances and codes remain "as is."

Mr. Rodgers discussed the fact that the fiscal impacts of the Plan on the Town were not fully known at this time and said that the impacts would be dependent upon future Council decisions regarding the amount and nature of municipal involvement within any future proposal for development in the downtown area. He advised that staff had not yet received recommendations from Boards/Commissions and stated that public hearings would be held as part of the Area Specific Plan adoption process if the Town Council directed staff to proceed with adoption during the General Plan Update process.

Mr. Rodgers informed the Council that staff recommended approval of the Fountain Hills Downtown Vision Plan and that the Plan be processed as an Area Specific Plan in conjunction with the General Plan Update process.

Mr. Rodgers indicated his willingness to respond to questions from the Council. Ms. Bender advised that there were no citizens wishing to speak on this agenda item.

Councilmember Brown asked that since the Plan was area specific, how difficult would it be down the road for a developer to alter it slightly.

Mr. Rodgers replied that developers would go through a process similar to any other development (the Concept Plan Review and rezoning, if necessary, as well as any other types of actions that would have to come before Council). He added that if the Council determined that whatever was being proposed met the guidelines, then the Council could approve the proposal.

Vice Mayor Archambault asked how the Plan lent itself to a private/public partnership when they got down into the park area (could the Town do a private/public partnership since they owned the land).

Mr. Rodgers responded that it was his understanding that the Council could do that; there would have to be some sort of public access allowance and other criteria would have to be met but he was not sure at this point of what that would consist.

Mr. McGuire said that before they could answer that question with any kind of certainty they were going to have to get a much better handle on the conveyance to the Town of those properties. He stated that staff did not yet have the documents necessary in order to give the Council a firm answer and it appeared that it was going to be difficult to "un-earth them." He added that when staff did know they would advise the Council. He said that there might actually be a restriction on use in the conveyance and staff wanted to be certain that they were clear in that area.

Mayor Schlum commented that he has been told that there were no restrictions and hopefully they could get the necessary documents in hand to review so that staff could provide the Council with an accurate opinion.

Mayor Schlum stated that this had been a very long process and he wanted to thank all of the residents, the Chamber of Commerce for "getting the ball rolling" and partnering with the Town, and staff for all of their efforts during this important and sensitive process. He also thanked the members of the Business Vitality

Advisory group. He commented on the excellent public input that was received. He noted that the proposal represented a flexible Plan that encapsulated many of the uses and also addressed the scale of the downtown. He stressed the importance of keeping the project alive and bringing it to fruition. He said that one of the components of the Plan involved linking the Park to the downtown and noted that currently there was quite a gap and other positive elements of the proposal. He indicated staff's intent to pursue funding and determine whether any Federal/State dollars were available for the project. The Mayor stated the opinion that ultimately the Vision would be something that they were going to be able to bring to the marketplace to help developers find real value and added that it would be an excellent economic development tool that would add real value to the properties. He added that the project would not happen overnight; they were experiencing bad economic times, but said it was a great time to do this planning and begin to prepare for what could happen when the economic situation improves.

Mayor Schlum stated that the Vision Plan was a tremendous, high-quality Plan that was going to warmly welcome the development world when there were dollars to be invested. He added that he was very proud of where they were at this point in time.

Councilmember Hansen **MOVED** to approve the Downtown Fountain Hills Vision Plan as depicted in the documents prepared by Swaback Partners on behalf of the Town of Fountain Hills and the Fountain Hills Chamber of Commerce. Also, that the Town Council direct staff to process the Downtown Vision Plan as an Area Specific Plan in conjunction with the General Plan amendment process. Councilmember Leger **SECONDED** the motion.

Councilmember Dickey commented on the fact that they were looking at a beautiful vision of a complete picture but stressed that nothing was definitely "off the table" -- this was simply a Vision Plan. She thanked everyone for all their hard work.

Councilmember Hansen referred to a statement in the staff report that said, "Not approving the Plan would require that the current development patterns and governing ordinances and codes remain as is" and said she did not think they wanted to do that. She concurred that staff has done an excellent job encapsulating and describing the Visioning that had taken place over the last six months and urged citizens to go on line and review the notes on all of the work that had been done to date.

Mayor Schlum announced that the Vision Plan was on the Town's website and the Chamber's site had extensive information as well.

The motion **CARRIED UNANIMOUSLY** (7-0).

AGENDA ITEM #12 - CONSIDERATION OF ORDINANCE 09-07, AMENDING THE TOWN OF FOUNTAIN HILLS TOWN CODE, CHAPTER 7, BUILDINGS AND BUILDING REGULATIONS, TO ADD A NEW ARTICLE 7-12, ILLEGAL CONSTRUCTION SITE ACTIVITY, RELATING TO CERTAIN BUILDING ACTIVITIES THAT MAY NEGATIVELY IMPACT ADJACENT PROPERTY.

Chief Building Official Peter Johnson addressed the Council relative to this agenda item and explained that the Ordinance would provide the necessary tools to deal with abandoned construction sites that were the result of the negative economy that they were experiencing. He urged the Council to approve this Ordinance.

Ms. Bender advised that there were no citizens wishing to speak on this agenda item.

Vice Mayor Archambault **MOVED** to approve Ordinance 09-07, amending the Town of Fountain Hills Town Code, Chapter 7, Building and Building Regulations, to add a new Article 7-12, Illegal Construction Site Activity, relating to certain building activities that might negatively impact adjacent property and Councilmember Dickey **SECONDED** the motion.

In response to a request from the Vice Mayor, Mr. Johnson described some of the site situations that he might have to address and how the Ordinance would assist him in carrying out this responsibility (i.e. abandoned foundations with substantial drop-offs, open trenches, the height of stockpiled dirt, items such as abandoned vehicles unrelated to the job site being kept at the job site, etc.). He confirmed that this issue was more a safety-related issue than an aesthetic one. Vice Mayor Archambault clarified that this Ordinance really addressed safety issues and the risks they represented on surrounding residents.

The motion **CARRIED UNANIMOUSLY** (7-0).

AGENDA ITEM #13 –CONSIDERATION OF RESOLUTION 2009-35, APPROVING A JOINT PROJECT AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION RELATING TO THE SHEA CLIMBING LANE PROJECT.

Town Engineer Randy Harrel addressed the Council relative to this agenda item and explained that the project was to construct the westbound lane going up the hill on Shea Boulevard from Fountain Hills Boulevard to Palisades Boulevard, together with its adjacent bike lane, curb and meandering concrete sidewalk along the north side of Shea Boulevard. He added that the project also included intersection lane additions/lengthening at the Shea/Fountain Hills Boulevard and the Shea/Palisades Boulevard intersections as well as drainage structures, landscaping and irrigation, a traffic signal, interconnect conduit and cable, signing and striping.

Mr. Harrel stated the opinion that this project was going to involve the largest amount of grant funding the Town had ever put into a single project. He reported that the Town received three grants for this project and noted that the design process was virtually complete. He added that ADOT had approved the construction documents and they were now at the office of the Federal Highway Administration for their approval. He explained that once the Town approved the joint project agreement and sent their matching funds to ADOT, ADOT basically handled everything. Staff would be involved as a liaison for anything they needed to coordinate with the Town.

Mr. Harrel noted that the three grants the Town had received for this project totaled \$3.2 million and the Town's minimum local matching funds totaled \$131,000 (3% of the project). He said that the Town Attorney had reviewed the joint project agreement and was working on the final details (legal verbiage) with ADOT and recommended approval of the proposal.

Mr. McGuire advised that the Council's packets contained the final version of the ADOT agreement and said that ADOT considered it a "pass through agreement" even though ADOT would hire the contractors, manage them and run the project. He discussed the included indemnification clause and said that it required the Town to indemnify the State for its own negligence, which he did not favor, but it had been included and was part of the documentation for the project.

Councilmember Dickey **MOVED** to approve Resolution 2009-35, approving a Joint Project Agreement with the Arizona Department of Transportation (ADOT) relating to the Shea Climbing Lane Project (Palisades Boulevard to Fountain Hills Boulevard) and Vice Mayor Archambault **SECONDED** the motion.

Ms. Bender advised that there were no citizens wishing to speak on this agenda item.

The motion **CARRIED UNANIMOUSLY** (7-0).

AGENDA ITEM #14 – COUNCIL DISCUSSION/DIRECTION TO THE TOWN MANAGER. ITEMS LISTED BELOW were RELATED ONLY TO THE PROPRIETY OF (i) PLACING SUCH ITEMS ON A FUTURE AGENDA FOR ACTION OR (ii) DIRECTING STAFF TO CONDUCT FURTHER RESEARCH AND REPORT BACK TO THE COUNCIL: A. NONE.
AGENDA ITEM #15 - SUMMARY OF COUNCIL REQUESTS AND REPORT ON RECENT ACTIVITIES BY THE TOWN MANAGER.

Councilmember Hansen requested that doors remain unlocked during open meetings and said that there had been a couple of times that citizens had not been able to come back into the rooms after they left.

Mayor Schlum stated that something was locking them automatically and Mr. Davis advised that staff had a group work on that issue and to date they had not found anything systemically wrong right now but they would re-diagnose that and keep checking. He assured the Council that the locking of the doors was "something quirky and not intentional."

Mr. Davis said that in light of the Town's new Vision Plan, he felt it important to inform the Council that Lori (the Town's Economic Development Administrator) already had quite a bit of success. Her recent trip to attend an ICSC Conference yielded quite a bit of fruit and already two development companies had expressed an interest in visiting the Town (major players). He added that Lori was able to share with them some of the Vision that was adopted this evening. He advised that a number of retailers were expressing renewed interest in the Town. He reported that on October 8th, Lori would be presenting at the first of two Retreats some information regarding the Trade Area Analysis and said that he believed that the Council would find this information very interesting and optimistic.

AGENDA ITEM #16 – ADJOURNMENT.

Councilmember Dickey **MOVED** that the Council adjourn the meeting and Vice Mayor Archambault **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (7-0). The meeting adjourned at 9:00 p.m.

TOWN OF FOUNTAIN HILLS

By _____
Mayor Jay T. Schlum

ATTEST AND
PREPARED BY:

Bevelyn J. Bender, Town Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Session held by the Town Council of Fountain Hills on the 17th day of September, 2009. I further certify that the meeting was duly called and that a quorum was present.

DATED this 1st day of October, 2009.

Bevelyn J. Bender, Town Clerk